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Wilkesboro Police Department

Electronic Written Directives Document

I. PURPOSE

The purpose of this directive is to give officers and evidence personnel guidelines and procedures for the storage, return and disposition of all evidence and property taken by the Wilkesboro Police Department.

II. POLICY

It is the policy of the Wilkesboro Police Department to safeguard property, preserve evidence, and document the chain of custody. This directive is to provide policy and procedure for the security and control of seized, recovered, and evidentiary property as well as abandoned, lost, or found property in the custody of the agency and to develop and maintain strict measures for the receipt, handling, security, and disposition of property and for maintaining a register of personal property seized, confiscated, or found as required by North Carolina General Statute 15-11.

The General Statutes of North Carolina require that every Police Department in North Carolina keep a book or register for recording or entering articles or property. The register must list all property which has been seized, confiscated or which had come into the Department's possession in the discharge of the Department's or an officer's duty.

III. DEFINITIONS

- A. Confiscated Property- Any property an officer takes into his possession due to the property being defined as contraband by General Statute. Examples would be marijuana, non-tax paid liquor, etc.
- B. DCI- Division of Criminal Information.
- C. District Attorney- The elected District Attorney or an Assistant District Attorney of the 23rd Judicial District or any District Attorney or Assistant District Attorney of any Judicial District having jurisdiction over the criminal proceeding for which property was seized.
- D. Found Property- Any property that is found by an officer or turned into the Police Department by an individual whose legal owner is unknown at the time.

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- E. Good Samaritan- That individual who turns in found property to the Department attempting to find the original owner.
- F. NCIC- National Crime Information Center.
- G. Owner- That individual who is able to provide sufficient information and facts, as well as identification, to satisfy the Department that the person claiming ownership is the rightful owner.
- H. Property Sheet- The Wilkesboro Police Department Electronic Evidence Control Form.
- I. Register- For the purpose of the Wilkesboro Police Department the register shall be electronically maintained in the Evidence Software Application. Reports generated from the application can display the necessary information.
 - 1. The register will contain the following applicable information:
 - a. A detailed description of the property,
 - b. Name of the person from whom it was seized,
 - c. The name of the person in possession of the property,
 - d. The date and place of the seizure of the property,
 - e. A brief explanation of the place and circumstances of how the property came into the possession of the Department, and
 - f. Information showing the manner, date and to whom the property is disposed of or returned to.
- J. Seized Property- Any property an officer takes into his possession pursuant to a search warrant, search incident to an arrest, property identifiable as stolen, or property retained as evidence in a criminal investigation.

IV. PROCEDURES

- A. The following procedures for receiving all in-custody and evidentiary property obtained by employees into agency control shall be followed:
 - 1. All property shall be logged into the agency records as soon as possible with a complete descriptive inventory of every item of property coming

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into the officer's possession because of their official duties and responsibilities.

2. All property shall be placed under the control of the evidence control function before the officer ends his/her tour of duty, thus allowing the property to be officially inventoried and recorded in the agency's records.
 3. Each officer shall complete fully an electronic property sheet [Evidence Control Form] describing in detail the property, from whom seized or obtained and a brief explanation of the place and circumstances of how the property came into the Department's possession. The completed property sheet shall contain the OCA number, and bar code number.
 4. The evidence and property sheet shall be placed with the evidence into the temporary evidence storage locker and locked or the lock box depending on its size.
 5. The evidence custodian shall check the locker and lock box on a regular basis removing all evidence and property sheets. The Evidence copy shall be maintained by the evidence custodian until final disposition. After final disposition all property forms will be held by the evidence custodian.
 6. All property shall be packaged and labeled in accordance with the Wilkesboro Police Department Policy and Procedures Document, entitled "Collection and Preservation of Evidence" and by referring to the S.B.I. Evidence Submission Document, available in the supervisor's office and in Investigations. Property shall be packaged properly prior to submission into Evidence.
- B. Guidelines for Handling Exceptional, Valuable, and Sensitive Items of Property
1. Firearms
 - a. Safety is of utmost importance when handling firearms.
 - b. All weapons seized, as evidence or otherwise coming into the custody of a Wilkesboro Police Officer shall be made safe by unloading any ammunition from the weapon as soon as possible. The weapon shall be "zip tied" through the chamber or cylinder by the evidence technician.
 - c. If it is determined that the weapon should not be unloaded for evidential reasons until a later time then the weapon shall be clearly marked as loaded and the person transferring custody of the weapon to

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another shall inform the person receiving custody that the weapon is loaded and the reason the weapon is still loaded.

- d. The Make, Model, Serial Number, and Caliber of the weapon shall be recorded on the property sheet if the information can be obtained from the weapon.

2. Money/Jewelry

- a. Money and expensive jewelry shall be locked inside the fireboxes located in the evidence room.
- b. All money seized shall be hand counted by at least two members of the department. Each member shall count the money separately and document the amount on a Cash Ledged form, which shall list out the number of bills or coins for each denomination, (2 \$20.00 bills, 100 pennies). If both counts agree in amount, that amount shall be noted on the property sheet. If the amounts do not agree then separate counts by each member will be made until the amounts do agree. Documentation of the counts shall be attached to the property sheet and shall become part of the file.

3. Body Fluids/Blood

Body fluids/blood shall be marked as being a bio hazard and shall be kept in the refrigerator in the evidence room if refrigeration is required. If refrigeration is not required, the evidence may be placed on shelves.

4. Drugs

- a. When possible all drugs should be photographed before they are removed from their initial location. Another person, preferably a supervisor, shall verify collection of drug and other contraband. The amount of the drug shall be listed, either by weight or unit dosage. If the amount is an estimate, indicate on the property sheet.
- b. The specific location where the drug was found should be documented, i.e. suspect right front pants pocket. If more that one subject is involved, keep the drugs taken from each person separate; document what drug(s) came from which subject.
- c. Drugs shall be packaged in tamper-proof protective packaging when submitted to the evidence room.

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- d. All evidence shall be properly marked and labeled so that the evidence custodian never has to open a package to verify contents when it is received or released for court, crime lab, or other authorized purpose.
- e. All containers and packages shall be inspected for tampering as a safeguard against substitution.

V. IDENTIFICATION AND NOTIFICATION OF PROPERTY OWENER

- A. All members of the Wilkesboro Police Department who collect property shall make reasonable attempt(s) to identify and locate the owners of property and notify them of the following:
 - 1. Status of the property
 - 2. Reason for the property coming into the agencies custody.
 - 3. Procedure to have property returned to owner if applicable.
- B. Each attempt to identify and locate the owners of property shall be documented in writing in a supplemental report and submitted to Records.

VI. RELEASE OF PROPERTY/EVIDENCE

- A. Temporary Release of Property Form the Evidence Room
 - 1. Property may be temporarily released for use in court, witness identification, to the crime lab for analysis, or other authorized purpose.
 - 2. Property may be temporarily released directly to the submitting officer by the evidence custodian releasing the property to him/her and the chain of custody completed with the date, time, reasoning for transfer of custody, and both officers' signatures. The evidence custodian shall also document the transfer in the Evidence Module in the computer.
 - 3. Property may be temporarily released to another authorized person if the evidence custodian has personal knowledge that the submitting officer has authorized the temporary release of the property. The evidence custodian shall follow the same procedures as in the above paragraph this policy.
- B. Final Release of Property from the Property and Evidence Function.
 - 1. Seized property may be disposed of in the following ways:

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- a. Returned to the rightful owner or agent after final disposition has been entered in the case and the property is no longer needed for court. Officers must verify the final court disposition through the Wilkes County Clerk of Court office, Administrative Office of the Court through DCI access, or the District Attorney's Office. Property must be held a minimum of 10 days following a court disposition in the event a notice of appeal is filed.
- b. Upon the direction of the District Attorney or an Assistant District Attorney Evidence/Property may be released to the owner or agent. If so directed by the district attorney's office photographs of the property will be taken before release.
- c. By order of a Court of proper jurisdiction.
 - (1). Every officer in charge of a case with that is docketed for court shall, at the time the case is disposed, request the District Attorney or Assistant District Attorney prosecuting the case to motion the presiding judge to enter a disposition of the evidence/property into the court records.
 - (2). The officer shall submit to the Evidence Custodian an Evidence/Property Disposition Sheet with the Order attached. A copy of the AOC printout from DCI showing the ordered disposition will suffice.
 - (3). When a case is disposed and the officer is not present at the time to request a disposition, the officer in charge of the case shall present an completed Petition and Order for Disposition of Physical Evidence (AOC-G-152 General, AOC-CR-218 Firearms, AOC-CR-920M for Alcoholic Beverages) to the District Attorney's office and request the District Attorney submit the order to a judge of property jurisdiction for signing, ordering the disposition of the property. The petition shall include a list of the property and the requested disposition, which may be in the form of an attachment. Once the order is signed, the officer will complete an Evidence/Property Disposition Sheet, attach the order to the sheet and submit to the Evidence custodian for disposition of the evidence.
- d. Property may be released to the Internal Revenue Service, North Carolina Tax Agent, or US Marshall's Office per written order.

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- e. Property may be released to the courts when duly authorized by court order.

2. Found Property

- a. Found property may be released to a verified owner or agent. The evidence custodian shall verify a person's identity by driver's license, picture identification card, or other positive identification.
- b. Found Property left in Property and Evidence in excess of 180 days in which the owner is unknown or refuses to pick up may be returned to the finder if the finder requests the property or sold at auction in accordance with NCGS 15-12 through 15-15 if the finder does not request the property. Officers are not permitted to request return of property that they found during the course of their duties.
- c. Property having little or no value may be destroyed per duly authorized order of destruction.

3. Firearms

- a. All firearms that have orders to be destroyed must be turned over to the Sheriff of Wilkes County or his designate for destruction.
- b. When a firearm has been placed into evidence control for any purpose and a lawful release is authorized or a court order has been issued for the return of a firearm to a private individual, a DCI "QH" purpose code "F" search must be conducted to ensure the receiver is not a convicted felon. A check must also be performed to insure the owner has not been deemed mentally defective under 18 U.S.C. 922 (g) (4). If it is found that the receiver is a convicted felon or mentally defective the firearm must not be returned and the Clerk of Superior Court must be notified at once.
- c. If an owner turns a firearm over to the police department with a request that it be destroyed the evidence custodian or his designee shall destroy the firearm after 60 days in custody but within 180 days of the firearm being turned over to the department.

VII. FINAL DISPOSITION

- A. To ensure final disposition of found, recovered, and evidentiary property is accomplished within six months after legal requirements are satisfied, twice a year the Evidence Custodian shall print and distribute a report for each officer

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showing active evidence and property that has been in custody over 180 days. Each officer will determine the status of the property and submit an Evidence Disposition sheet on the property showing the status of the case and property. If an order is needed to dispose of the evidence the officer will complete the motion and forward to the District Attorney's Officer for review and submit to a judge for signing. The officer will forward the order and an Evidence Disposition sheet in a timely manner to the Evidence Custodian who will dispose of the property.

- B. Evidence or Property to be sold will be separated and inventoried. The inventory list will be maintained and updated with new items as needed. The property will be sold as allowed by law at the next Town of Wilkesboro held auction. (See NC GS 15 Article 2)
- C. The Wilkesboro Police Department does not request of the state's courts the authority to possess evidence or property of any kind for training purposes. No evidence or property is held for this purpose.

VIII. STORAGE AND SECURITY

- A. All in-custody property and evidence will be stored within designated secure areas. These areas are the Evidence Vault located at the police department and the Property/Evidence Storage room located behind the storage bay. Temporary gray drop box and the gray lockers located in the officers' room. Both temporary locations are affixed with suitable locking mechanisms for security and chain of custody.
- B. The evidence vault will be used to store seized items to include; firearms, money, drugs, jewelry and precious metals and other items of a sensitive nature.
- C. A refrigerator for storing perishable property is located in the evidence room. The refrigerator will only be used to store in-custody property and evidence received into the departmental evidence room. In the event evidence is collected that requires refrigeration the evidence custodian will be called in to secure the evidence within the evidence room in the refrigerator. The call out will be with the approval of the on duty supervisor.
- D. Items of evidence/property too large for the main evidence room will be placed in the property/storage room located in the police department. Items that will be stored in this area included, but not limited to: bicycles, appliances, items of furniture, lawn mowers, chain saws, any items containing petroleum products, tires wheels etc. Found property and property to be auctioned may also be stored at this location.

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- E. Vehicles that are impounded by the agency will be stored at one of the following places:
1. Towed vehicles not seized as evidence, (example: traffic violations, abandoned vehicles etc.), shall be towed by the next Rotation Wrecker Service. Each wrecker service, by written agreement, will provide a secure area for vehicles. The investigating officer will inventory towed vehicles using the incident report (DCI 600) and property control form. Valuable property will, if possible, be given to the owner or occupant of the vehicle. When no one available to take custody of valuable property in the vehicle the officer shall take the property for safekeeping. The officer shall complete a property control sheet and submit the items to evidence using the normal procedures. The wrecker service shall maintain custody of the vehicle keys, if any.
 - a. The officer shall list on the Incident Report (DCI 600) and property control forms any requirements that must be met before the towing service can release the vehicle, such as proper registration or proof of insurance.

 2. Impounded/Seized Vehicles: will be stored at the City-County lot located on Ithica Drive 100 yards north of NC Highway 268 West, in the fenced area. Temporary storage may include the inside storage bays located at the police department while processing is taking place. The vehicle will be inventoried by utilizing the incident report and property control form. Valuables will be removed and a property sheet completed. Keys to the vehicle, valuable and other items of evidence removed/recovered from the vehicle will be submitted to the main evidence room/and or evidence/property storage building.
 - a. Immediately after processing but within 72 hours, the vehicle will be removed to the storage area of the wrecker service initially towing the vehicle. If the vehicle needs to remain at the police department for a longer period of time, the officer shall attach a written report detailing why the vehicle is to remain and why it is to be removed.
 - b. The procedures set forth by North Carolina General Statute 20-28.2 shall be followed for vehicle seizures impounded for DWI forfeitures. Rotation wreckers shall be used and the rotation wrecker shall contact the state contracted service for storing the vehicle until disposed by the state.

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- c. All vehicles impounded or towed will be properly inventoried, by utilizing the incident report (DCI 600) and property control form, valuables removed and a property report completed. If keys to the vehicle are obtained, the keys will be removed from the vehicle and vehicle locked and keys listed on the property sheet and stored in the evidence room.

- F. No property may be stored inside the Wilkesboro Police Department that contains gasoline, oil or other petroleum products. Property of this nature and other large bulky items must be stored in the bay storage area.

- G. To maintain the integrity and chain of custody of evidence and protect property that comes into the custody of the Wilkesboro Police Department, secure areas are provided.

- I. The officer submitting the evidence shall correctly mark the evidence for identification. If the evidence is in a container, the container must be sealed. The officer shall completely fill out the property sheet [Evidence Control Form], have the evidence and form reviewed by the on duty supervisor and have the form signed by the supervisor prior to placing the evidence into the locker and locking lock.

- K. Property too large to be placed in the temporary storage areas will be placed in team commander's lockable closet until such time the evidence technician can be notified. Once the property is placed in the storage closet the lock will be secured.

- L. A property report will be completed on items of evidence/property with a proper chain of custody. The officer submitting the evidence shall correctly mark the evidence for identification. The officer shall completely fill out the property control form, have the evidence and form reviewed by the on duty supervisor prior to placing the evidence into the temporary storage locker and locking lock.

- M. When possible, the officer obtaining evidence such as recovered stolen property, shall request permission from the District Attorney's office to photograph the items and release to the owner.

- N. Only the departmental evidence custodian, Deputy Chief of Police, and the Chief of Police have access to areas used by this agency for storage of in-custody or evidentiary property, to include, the main evidence rooms. No other departmental personnel have keys or combinations to secure evidence/property facilities.

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IX. RECORDS AND STATUS OF PROPERTY

A. The computerized records bar coding system is maintained by the Evidence Custodian to include:

1. Location of the property;
2. Date the property was received or released;
3. Description of the evidence;
4. Submitting officer's name/ID;
5. Chain of Custody;
6. Current status of the property,
7. Final Disposition of the property and date disposed.

X. INSPECTIONS AND AUDITS

- A. The Evidence and Control Officer shall conduct inspections at least semi-annually to determine and insure adherence to procedures used for the control of property.
- B. An inventory audit of property will occur whenever the person responsible for the property and evidence control function is assigned to and/or transferred from the position. The newly designated evidence custodian and a designee of the Chief of Police shall conduct the inventory jointly to ensure that records are correct and properly annotated. During the audit ninety-five percent (95%) of high risk property (i.e. money, firearms, drugs, jewelry and precious metals) must be sampled for correct documentation and accountability. If the error rate exceeds four percent (4%) then an inventory of all high risk property must be done.
- C. An annual audit of property held by the Department will be conducted by a supervisor not routinely or directly connected with control of property.
- D. Unannounced inspections of property storage areas are conducted as directed by the Chief of Police.
- E. All inspections, inventories, and audits shall be documented in writing on the departments Semi-Annual/Unannounced Inspection Report (Form WPD-A9).

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XI. REFERENCES

18 U.S.C. 922(g) (4)

N.C.G.S. 15-11

N.C.G.S. 15-12

N.C.G.S. 15-15

N.C.G.S. 15 Article 2

CALEA 84.1.1, 84.1.2, 84.1.3, 84.1.4, 84.1.5, 84.1.6, 84.1.7 and 84.1.8